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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,602	06/30/2001	Jurgen A. Heinz	19368-086997	5734

28886 7590 04/21/2003

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EXAMINER

NGUYEN, THONG Q

ART UNIT PAPER NUMBER

2872

DATE MAILED: 04/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/869,602

Applicant(s)

HEINZ, JURGEN A.

Examiner

Thong Q. Nguyen

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 45-68 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 45-68 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Art Unit: 2872

## **DETAILED ACTION**

### ***R sponse to Am ndm nt***

1. The present Office action is made in response to the amendment (Paper No. 9) filed on 1/27/2003. It is noted that in the amendment, applicant has canceled all original claims 23-44 and added a new set of claims 45-68.

### ***Oath/Declaration***

2. The objection to the oath or declaration as set forth in the previous Office action (Paper No. 7, pages 2-3) is repeated. It is noted that in response to the objection, applicant has stated that the applicant will file a new Oath/Declaration; however, such a new Oath/Declaration has not been received by the Office at the time the application is reexamined.

### ***Specification***

3. The lengthy specification which is amended by the amendment has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 50-53 and 57-68 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as

Art Unit: 2872

to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

a) Claim 50 is rejected under 35 USC 112, first paragraph because the specification fails to provide sufficient information/details to enable one skilled in the art to make the device without undue experimentation. In particular, the specification discloses a control device having a sheet-like heating resistor, a circuit having at least one resistor and one transistor, see specification pages 7 and 9 and figs. 4, for example; however, the specification fails to provide sufficient data for the resistor(s) and the transistor(s) so that the voltage outputted from the circuit is in the range of zero volts to 2.5 volts. In other words, what kind of resistor and what is the value of the resistor, etc... being used so that the control voltage is in the range claimed?

b) Each of claims 52 and 57 is rejected under 35 USC 112, first paragraph for the similar reason as set forth in element a) above.

c) The remaining claims are dependent upon the rejected base claims and thus inherit the deficiencies thereof.

6. Claims 45-68 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

a) Claim 45 is rejected under 35 USC 112, second paragraph because it is unclear how many voltages being applied to the electrochromic mirror and the

Art Unit: 2872

heating element as recited in the features thereof "a rearview mirror...electrochromic mirror" (lines 3-13). In particular, as recited in the mentioned features, the electrochromic mirror and the heating element are subjected to two kind of voltages, one from the vehicle power supply (see lines 7-8) and the other from the control voltage (lines 9-13). However, the use of two kinds of voltages for the electrochromic mirror and the heating element is not supported by the specification as originally filed.

b) Claim 57 is rejected for the similar reason as set forth in element a) above.

c) The remaining claims are dependent upon the rejected base claims and thus inherit the deficiencies thereof.

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 48 and 60 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a) In claim 48 on line 2: the terms "said control signal" lack a proper antecedent basis, and also unclear about the component(s) being used to produce such a feature.

b) Claim 60 is rejected under 35 USC 112, second paragraph for the similar reason as set forth in element a) above.

### ***Claim Rejections - 35 USC § 102***

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Art Unit: 2872

10. Claims 45-47, 49, 54 and 55, as best as understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Schierbeek et al (U.S. Patent No. 5,659,423).

Schierbeek et al discloses a modular variable reflectance mirror assembly for use with a vehicle having a vehicle power supply or 12 volts or an ignition voltage of 9 to 16 volts. The mirror assembly as described in columns 4-7 and shown in figures 1-3 comprises an electrochromic mirror (16) having a front surface and a rear surface; a heating element (20) located on the rear of the electrochromic mirror and in thermal contact with the electrochromic mirror wherein the mirror and the heating element are operated via the power provided by the vehicle voltage or the ignition voltage. As described in columns 5-7 and fig. 3, the mirror assembly comprises a control circuit having sensors whose outputs are used to control the reflectant level of the mirror and transistors, resistors, comparators, etc.... It is noted that a circuit branch from the vehicle voltage (V) to ground comprises a resistor (R24) and two transistors (Q1 and Q2) connected in series wherein the electrochromic having the heating element in connection thereof is connected in parallel to the transistor (Q2). As a result, the voltage used to control the electrochromic mirror having the heating element is less than the vehicle voltage (V) due to the heat dissipated by the presence of the resistor (R24) and the operation of the transistor (Q1).

***Claim Rejections - 35 USC § 103***

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2872

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 56 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Schierbeek et al.

The mirror assembly as provided by Schierbeek et al does not disclose that the transistor (Q2) is able to connect to the electrochromic mirror in a series manner; however, such a connection as claimed is merely that of a preferred embodiment and no criticality has been disclosed. The support for that conclusion is found in the present specification and also in present claim 55 in which applicant has admitted that the connection between the transistor and the mirror is a parallel connection. Thus, absent any showing of criticality, it would have been obvious to one ordinary skill in the art at the time the invention was made to modify the assembly provided by Schierbeek et al by connection the transistor and the mirror in a series connection for the controlling the distribution of the power while still providing sufficient voltage to the heating element.

### ***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within



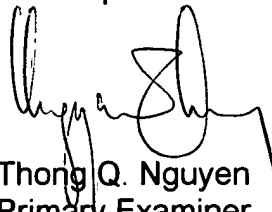
Art Unit: 2872

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thong Q. Nguyen whose telephone number is (703) 308-4814. The examiner can normally be reached on M-F.

The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 0956.



Thong Q. Nguyen  
Primary Examiner  
Art Unit 2872

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April 17, 2003